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LAW OFFICES OF de BIE and CROZIER, LLP.  
W. Scott de Bie, State Bar No. 88612  
Lorraine W. Crozier, State Bar No. 114218  
1107 Second Street, Suite 220  
Sacramento, California 95814  
(916) 442-4545

Attorney for Debtor

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA  
(Sacramento Division)

In re:	)	Case No. 07-20072-D-13L
	)	DC No. SdB-2
AERY UPTON	)	
	)	<u>MOTION TO MODIFY CHAPTER 13</u>
	)	<u>PLAN AFTER CONFIRMATION</u>
	)	
	)	Date: October 6, 2009
	)	Time: 1:00 p.m.
	)	Courtroom 34, Dept. D
Debtor	)	501 "I" Street, Sacramento, CA 95814

The Debtor, Aery Upton, by and through her attorney, W. Scott de Bie, moves this court for its order modifying Debtor's Chapter 13 plan of Reorganization after confirmation and in support thereof alleges as follows:

1. This is a core proceeding pursuant to 28 U.S.C. §1334 and §157. This Motion is brought pursuant to 11 U.S.C. §1329 and Bankruptcy Rules 2002 and 3015.

PROCEDURAL HISTORY

2. Debtor's Chapter 13 Bankruptcy petition was filed with this Court on January 4, 2007. Filed concurrently with the petition, the Debtor filed with the court a proposed Plan of Reorganization that called for payments of \$470.00 per month for 60 months so as to pay in full all secured and priority claims, if any, and approximately

1 100% to allowed unsecured claims. No objections to confirmation of the plan were  
2 filed, or if objections were filed, resolved.  
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5 MODIFICATION

6 3. It is acknowledged that Debtor have paid a total of \$12,691.00 into the  
7 plan through September, 2009;

8 4. Because Debtor had unexpected auto repairs, she will be unable to make  
9 her plan payments for August and September 2009. Additionally, the unsecured  
10 claims were filed for more than Debtor anticipated, therefore it is necessary to modify  
11 her plan to reduce the pay out to unsecured creditors.

12 5. The Debtor proposes to cure any plan delinquency and resolve all  
13 inadequacies of the plan by making payments of \$500.00 per month beginning October,  
14 2009 and continuing for the 31 months remaining in the 60 month plan.

15 6. The modification proposed by Debtor will not modify the rights of the  
16 holder of any secured or priority claim being dealt with under the plan.

17 7. The modification proposed by Debtor will modify the rights of the holder of  
18 any unsecured claim as the proposed dividend shall be reduced to no less than 85%.

19 8. A modified plan, reflecting the terms of this motion will be filed and served  
20 upon all interested parties of record prior to the hearing.

21 WHEREFORE, Debtor prays the Court for its order modifying Debtor's Chapter  
22 13 plan by permitting payments of \$500.00 per month beginning with the October, 2009  
23 payment.

24 Dated: 8/24/09  
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Law Offices of de Bie and Crozier

26 By:   
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W. Scott de Bie  
Attorney for Debtor  
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